IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13053 of 2004
with
SPECIAL CIVIL APPLICATION No 7519 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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RAJKOT DISTRICT EDUCATION SERVICE CLASS-III (NON-CLERIC
Versus
STATE OF GUJARAT

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Appearance:
1. Special Civil Application No. 13053 of 2004 with
Special Civil Application No. 7519 of 2004
MR SHAKTISINH GOHIL for Petitioner No. 1
MR HASURKAR, AGP for Respondent No. 1-3
NOTICE SERVED BY DS for Respondent No. 1-3

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CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 02/03/2005

ORAL JUDGEMENT

RULE. Learned AGP, Mr.Hasurkar, waives service of notice of rule on behalf of the respondents. At the joint request of learned advocates appearing for the parties, this matter is taken up for final disposal today.

The grievance of the petitioner in Special Civil Application No.13053/2004 is that, in Rajkot district the question of upgradation of secondary school teachers to the level of higher secondary school teachers is being addressed in a somewhat different manner then what is being done in other districts and contrary to Government policies, and the authorities are not granting upgradation even to the extent posts are vacant in the cadre of higher secondary school teachers. It is contended that on account of this problem of implementation of the Government policies, number of teachers have suffered either on account of being rendered surplus or on account of being shunted out from their parent district. It is contended that in all other districts, upgradation is being granted by the authorities to the extent higher posts are available.

In Special Civil Application No.7513/2004, the sole petitioner has made a grievance that though he has been upgraded and directed to be absorbed in higher posts by an order dated 3rd April, 2002, the said order is not being implemented for no reasons at all.

Appearing for the Government, learned AGP, Mr.Hasurkar, submitted that there are practical difficulties in accomodating teachers in the secondary section who have rendered services, on the ground of shortage of vacancies. He submits that, however, if the petitioners approach the authorities their problems will be properly addressed to and a decision will be taken in accordance with Government policy. He also submitted that primary authority to take the decision in this regard is District Education Officer, however, considering the facts and circumstances of the case, the Commissioner of Schools will also supervise this exercise and give necessary guidance and directions to the District Education Officer, as found necessary. He also submits that quite a few number of cases have come to light wherein individual schools have granted upgradation contrary to the rules. He further submits that therefore, while undertaking entire exercise it would be necessary to reverse such decision, to give complete justice to the deserving teachers.

In view of the above discussion, it is directed that the petitioners shall make a detailed representation to the D.E.O., Rajkot, regarding their grievance with respect to upgradation and absorption of the secondary teachers in the district. If such representations are made within a period of two weeks from today, the District Education Officer shall consider the same and decide it in accordance with Government policy, after examining the extent to which surplus teachers can be absorbed on higher post upon upgradation, considering their inter se seniority. The decision that may be taken by the D.E.O., shall be in consultation with the Commissioner of Schools. The representations should be disposed of within a period of two months from the date of its receipt. While the authorities are considering issues, it is expected that final decision to render the teachers as surplus will be taken only upon conclusion of this exercise, since, obviously the extent to which the number of teachers are required to be declared surplus will be reached only after this exercise is completed. Needless to say, if any of the upgradations are granted by the schools are found to be dehors the rules, it will be open for the authorities to review the same in accordance with rules.

Accordingly, both these petitions are allowed to the aforesaid extent. Rule is made absolute accordingly. No order as to costs.

(Akil Kureshi, J.)
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